

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

FREDERICK GROVES

PETITIONER

VERSUS

CIVIL ACTION NO. 1:07cv45-LG-JMR

RAYMOND BYRD, Warden

RESPONDENT¹

**ORDER OF TRANSFER PURSUANT
TO 28 U.S.C. § 1631**

This matter comes before this Court, *sua sponte*, for consideration of transfer. The Petitioner, an inmate of the Delta Correctional Facility, Greenwood, Mississippi, filed this request for habeas corpus relief pursuant to 28 U.S.C. § 2254. On March 20, 1996, Petitioner was found guilty by a jury of transfer of a controlled substance in the Circuit Court of Harrison County, Mississippi. Petitioner was sentenced to serve a term of 30 years in the custody of the Mississippi Department of Corrections.

The Petitioner has previously filed for habeas relief in this Court challenging this same conviction in *Groves v. Booker*, 1:01cv114RG (S.D. Miss. Feb. 28, 2002). On February 28, 2002, this Court entered a Final Judgment which dismissed Petitioner's habeas civil action number 1:01cv114RG with prejudice. A Petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate Court of Appeals for an order authorizing the District Court to consider the successive motion. 28 U.S.C. § 2244(b)(3)(A). The Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit to proceed

¹As ordered by this Court, the petitioner filed an amended writ of habeas corpus [3-1] providing the name of his custodian as the proper respondent in this habeas matter.

with his cause in this Court. Therefore, this Court has determined that in the interest of justice, this cause should be transferred to the United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed. *See In Re Epps*, 127 F.3d 364 (5th Cir. 1997). Accordingly,

IT IS HEREBY, ORDERED AND ADJUDGED that pursuant to 28 U.S.C. § 1631, this petition for habeas corpus relief is transferred to the United States Court of Appeals for the Fifth Circuit.

IT IS FURTHER ORDERED AND ADJUDGED that the Clerk of this Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED AND ADJUDGED this the 22nd day of February, 2007.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE